

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)	CASE NO. 10-93904-BHL-11
)	
EASTERN LIVESTOCK CO., LLC,)	Hon. Basil H. Lorch, III
)	
Debtor.)	
)	

**RESPONSE OF CPC LIVESTOCK CO., LLC IN OPPOSITION TO TRUSTEE'S
OBJECTION TO CLAIM 197**

COMES NOW Claimant CPC LIVESTOCK CO., LLC ("CPC"), by and through undersigned counsel, and files this *Response Of CPC Livestock Co., LLC To Trustee's Objection To Claims 197* and states as follows:

1. The Trustee filed objections to Claim No. 197 on April 19, 2013 providing thirty (30) days in which to respond. The thirty (30) day period ran May 19, 2013, a Sunday, this response is timely.

2. The Trustee's Objection To Claim 197 ("Doc. 2099") seeks an order disallowing Claim 197 pursuant to 11 U.S.C. §502(d). CPC is a party to Adversary Proceeding No. 11-59093 ("Friona Adversary"), and the Trustee seeks to stay action on the claim pending outcome of the adversary proceeding.

3. While CPC responds without objection to entry of a stay of the Trustee's Claim Objection pending determination of certain matters within the Friona Adversary, CPC states that the matters involving the unpaid \$166,627.30 plus interest for which amount the funds have been paid as interpled funds into the Friona Adversary proceeding differs from the two (2) amounts for which CPC received checks that were dishonored by Fifth Third Bank with a "Refer To

Maker.’ See Claim No. 197, **Exhibit A**, Check Nos. 124650 in the amount of \$237,383.33 plus interest and 123327 in the amount of \$221,682.50 plus interest.

4. In the case of the unpaid \$166,627.30, this amount represents an unpaid portion of a revised delivery sale contract for 200 head of cattle delivered by CPC, in CPC’s own trucks to JBS Five Rivers, Gilcrest feedyard (“Gilcrest”) with payments to be made directly to CPC by Gilcrest. Payment of this amount was improperly interrupted by the Trustee’s claim and the funds were interpled by Gilcrest. CPC.

5. The delivery contract was revised by agreement between CPC, Gilcrest, and Eastern livestock prior to a receiver being appointed and shortly after the CPC, Gilcrest, and Eastern became aware of the massive dishonor without notice by Fifth Third Bank of outstanding checks issued in payment for cattle. See **Exhibits B and C**.

6. Of note is the fact that all payments for cattle, including the unpaid \$166,627.30 plus interest and the two (2) dishonored checks for of \$237,383.33 and \$221,682.50 were each made payable and to be made payable jointly to CPC Livestock and Farm Credit Services, the latter of which had a prior, perfected UCC lien on all CPC cattle.

7. Also of note is the fact that all cattle were delivered in trucks owned and controlled by CPC and subject to the Farm Credit Services lien in transit until delivery to Gilcrest. Eastern was a pure broker and title never passed in any of the CPC transactions through Eastern. Indeed, Gilcrest and Eastern, and by extension Fifth Third Bank, acknowledged the Farm Credit Services lien in issuing their checks

8. The cattle sold by CPC are considered “farm products” under both Kentucky’s UCC from where the livestock were shipped and Colorado’s UCC where the livestock were delivered. See K.R.S. 355.9 and §4-9 C.R.S. Pursuant to § 4-9-109(3), C.R.S. “goods” are “Farm

Products” if they are crops or livestock or supplies used or produced in farming operations or if they are products of crops or livestock in their unmanufactured states and if they are in the possession of a party engaged in raising, fattening, grazing, or other farming operations. *If goods are “farm products”—as here—they are neither equipment nor inventory.*

9. Farm Credit Services filed an effective financing statement that covered the cattle and traveled with the cattle during hauling in CPC’s trucks and CPC’s possession until such time as the cattle were delivered for payment to Gilcrest. Debtor Eastern had no interest in the CPC livestock other than for its commission at \$0.75/cwt and Fifth Third’s lien did not attach.¹

WHEREFORE although without objection to the requested stay pending outcome of the Friona Adversary proceeding, CPC Livestock Co., LLC’s Claim No. 197 in the amount of \$631,045.07 is entirely valid and proper and should be allowed without objection. CPC reserves the right to further supplement this Response. The Trustee’s objection should be REJECTED.

Respectfully submitted this 20th day of May 2013,

W. SCOTT NEWBERN, PL

/s/ Walter Scott Newbern

W. Scott Newbern
2982 East Giverny
Tallahassee, FL 32309
(T) 850.591.1707
(F) 850.8940871
wsnewbern@msn.com

COUNSEL FOR CLAIMANTS

¹ Assuming arguendo that Debtor Eastern did take the cattle (which in reality it did not), Debtor Eastern took subject to the Farm Credit Services perfected security interest and for which Debtor paid nothing.

CERTIFICATE OF SERVICE

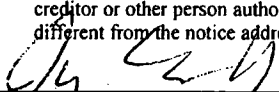
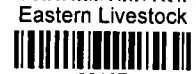
I hereby certify that on this 20th day of May 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

/s/ W. Scott Newbern

W. SCOTT NEWBERN

Exhibit A

B 10 (Official Form 10) (04/10)

UNITED STATES BANKRUPTCY COURT Southern District of Indiana		PROOF OF CLAIM
Name of Debtor: Eastern Livestock, Co., LLC		Case Number: 10-93904-BHL-11
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): CPC Livestock		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.
Name and address where notices should be sent: c/o Jessica Yates Snell & Wilmer L.L.P. 1200 Seventeenth St., Suite 1900 Denver, CO 80202 Telephone number: 303-634-2097		Court Claim Number: _____ (If known) Filed on: _____
Name and address where payment should be sent (if different from above): Same Telephone number: _____		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
1. Amount of Claim as of Date Case Filed: <u>\$ 631,045.07</u> If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. <input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507(a)(5). <input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507(a)(8). <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507(a)(). Amount entitled to priority: \$ _____
2. Basis for Claim: <u>Goods sold</u> (See instruction #2 on reverse side.)		*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
3. Last four digits of any number by which creditor identifies debtor: <u>NA</u> 3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim. 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		
Date: <u>4/5/11</u> Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.  <u>Jessica E. Yates</u>		 Eastern Livestock 00197

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both 18 U.S.C. §§ 152 and 3571

ATTACHMENT TO PROOF OF CLAIM
In re Eastern Livestock, Co., LLC, USBC Case No. 10-93904-BHL-11

Amount Owing as of December 6, 2010 for Returned Check No. 124650

Principal	\$237,383.33
Interest	<u>2,081.20</u>
TOTAL	\$239,464.53

Amount Owing as of December 6, 2010 for Returned Check No. 123327


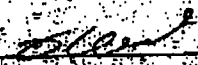
Principal	\$221,682.50
Interest	<u>1,992.19</u>
TOTAL	\$223,674.69

Amount Owing as of December 6, 2010 for Invoice No. 10386

Principal	\$166,627.30
Interest	<u>1,278.55</u>
TOTAL	\$167,905.85

Total Amount Owing as of December 6, 2010

Principal	\$625,693.13
Interest	<u>5,351.94</u>
TOTAL	\$631,045.07

LEARN ANTERN LIVESTOCK CO., LLC		135 West Market New Albany, IN 47150 812-949-8035		No 124650  Fifth Third Bank Northern Kentucky		73-27 421						
PAY TO THE ORDER OF		<table border="1"><thead><tr><th>DATE</th><th>CHECK No.</th></tr></thead><tbody><tr><td>10/10/27</td><td>123550</td></tr></tbody></table>		DATE	CHECK No.	10/10/27	123550	<table border="1"><thead><tr><th>AMOUNT</th></tr></thead><tbody><tr><td>***237,383.33</td></tr></tbody></table>		AMOUNT	***237,383.33	
DATE	CHECK No.											
10/10/27	123550											
AMOUNT												
***237,383.33												
CPC LIVESTOCK FARM CREDIT SERVICES 13196 HOLLAND ROAD FOUNTAIN RUN, KY 42138		 SIGNATURE										

<https://wc.wachovia.com/NETAccountServices/ItemImage/PrintImages.aspx?papers=1&ID=50b46497-...> 11/11/2010

No 123327

LEE E
EASTERN
LIVESTOCK CO., LLC

135 West Market
New Albany, IN 47150
812-949-9035

BT Fifth Third Bank
Northern Kentucky

DATE	CHECK No.
10/10/26	123327

AMOUNT
221,682.50

PAY TO THE ORDER OF

CPC LIVESTOCK
FARM CREDIT SERVICES
13196 HOLLAND ROAD
FOUNTAIN RUN, KY 42133

[Signature]
SIGNATURE

PAGE 04

Page 3 of 5

<https://wc.wachovia.com/NETAccountServices/ItemImage/PrintImages.aspx?papers=1&ID=50b46497-...> 11/11/2010

200 Head Not Paid for -
\$166,627.30

Sold To EASTERN LIVESTOCK
@ BILCREST, CO

Nº 10386
CPC LIVESTOCK

Date 11/1 - 11/2 / 2010

Michael, Kassie Cell: 270-799-1313
Marshall, Sara 270-434-4943 270-622-5425
Ivan, Michelle 270-434-2490
Brian, Cathy 270-618-7044
Cell: 270-646-7214 Cell: 270-670-3460 Cell: 270-618-0496

Fax 270-622-6062
13196 Holland Road - Fountain Run, Ky 42133

REMARKS	NO. HEAD	KIND	WEIGHT	PRICE	AMOUNT
			147,530		
723	200	ST	144,579		
			269,900		
780	339	ST	264,502		
	TOTAL				
759	539		417,430		
CERTIFICATION OF NON-PRODUCER STATUS FOR THE RESELLER Claimed on # _____ cattle pursuant to 7CFR §1260.116 and 1260.314 DO NOT DEDUCT the \$1.00 per head Beef Promotion Assessment BEEF COUNCIL REGISTERED No. KY-031 Signature _____ Date _____			ST	409,081	114 ¹⁴
					466,925 ⁰⁵

11/2 MIHM - 62
11/2 MIHM - 62
TRUCKER

HUWALOT - 63
TRIPLE D - 76
TRIPLE D - 76

AMOUNT
TOTAL \$ 466,925⁰⁵

04/06/2011 11:56 12786226062

JM GELSOR

PAGE 02

Sold
To

EASTERN LIVESTOCK

@ GILCREST, CO

No 10385
CPC LIVESTOCK, LLC.

Fax: 270-822-8082

13196 Holland Road - Fountain Run, Ky 42183

Date

10/25/10

Michael, Kasele
Cell: 270-789-1813Marshall, Sara
270-434-4943 270-822-5421
Cell: 270-848-7214Ivan, Michelle
270-434-2480
Cell: 270-670-3480Brian, Cathy
270-618-7044
Cell: 270-618-0496

REMARKS	NO. HEAD	KIND	WEIGHT	PRICE	AMOUNT
(10/25)			203,040		
771	258	ST	198,979		
(10/26)			214,720		
736	286	ST	210,426		
TOTAL			417,760		
753	544	ST	409,405	112'3	459,065.83

CERTIFICATION OF NON-PRODUCER STATUS
FOR THE RESELLERClaimed on 8/24/10 cattle pursuant to
7CFR §1280.116 and 1280.314DO NOT DEDUCT the
\$1.00 per head Beef Promotion Assessment

BEEF COUNCIL REGISTERED No. KY-03

Signature: [Signature] Date: 10/25/10

TRIPLE D - 75
TRIPLE D - 75
BGL - 72

TRUCKER [Signature]
Hr. CTC IN SUP - 604

AMOUNT

TOTAL \$459,065.83

Returned Checks - 221,682.50
237,383.38
459,065.88

Southern District of Indiana Claims Register

10-93904-BHL-11 Eastern Livestock Co., LLC

Judge: Basil H. Lorch, III

Chapter: 11

Office: New Albany

Last Date to file claims: 05/02/2011

Trustee: James A. Knauer

Last Date to file (Govt):

<i>Creditor:</i> (10483003) CPC Livestock 13196 Holland Road Fountain Run, KY 42133	Claim No: 132 <i>Original Filed</i> <i>Date:</i> 04/06/2011 <i>Original Entered</i> <i>Date:</i> 04/06/2011	<i>Status:</i> <i>Filed by:</i> CR <i>Entered by:</i> Yates, Jessica <i>Modified:</i>
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Unsecured claimed: \$631045.07

Total claimed: \$631045.07

History:

Details 132-1 04/06/2011 Claim #132 filed by CPC Livestock, total amount claimed: \$631045.07
(Yates, Jessica)

Description: (132-1) Goods sold and not paid for

Remarks:

Claims Register Summary

Case Name: Eastern Livestock Co., LLC

Case Number: 10-93904-BHL-11

Chapter: 11

Date Filed: 12/06/2010

Total Number Of Claims: 1

	Total Amount Claimed	Total Amount Allowed
Unsecured	\$631045.07	
Secured		
Priority		
Unknown		
Administrative		
Total	\$631045.07	\$0.00

Exhibit B

AFFIDAVIT OF JIMMIE MARSHALL CELSOR

STATE OF KENTUCKY

COUNTY OF ALLEN

JIMMIE MARSHALL CELSOR, being first duly sworn, avers that he is over twenty-one (21) years of age, that he has personal knowledge, or verifications from reliable sources, of the following facts and that if called to testify he would aver to their truth:

1. I am an owner of CPC Livestock, LLC ("CPC Livestock") and am involved in the daily affairs of CPC Livestock.

2. CPC Livestock is a "Dealer" registered under the Packers and Stockyards Act of 1921, 7 U.S.C. §§181 et seq. and governing regulations, 9 C.F.R. §201 et seq ("Stockyards Act"). CPC Livestock's is what the cattle industry calls a "backgrounder," buying cattle and preconditioning them for shipment to feedlots mostly in the West.

3. Over the years CPC Livestock has had many dealings with Eastern Livestock, LLC ("Eastern") and Tommy Gibson. I have been involved in these transactions and personally know Tommy Gibson. Eastern was the largest cattle broker in the country.

4. My understanding from dealing with Eastern is that Eastern frequently bought cattle for its own account and for others without ever taking possession and, in the same transaction, the cattle sale price would reflect a commission of \$.50 to \$.75 per 100 pounds of cattle weight added to the price. I understood that this reflected Eastern's commission on the sale. Eastern would also buy for other livestock purchasers on the same commission basis or \$.50/100 wt. In its dealings with CPC Livestock, Eastern's commission amount was confirmed prior to each transaction.

5. Eastern rarely took possession of the cattle. When it bought for its own account, Eastern would resell the cattle at as much of a profit as it could earn. When Eastern bought for others, typically feedlots on order, Eastern would earn its commission, usually \$.50 to \$.75 per 100wt. (usually expressed as "\$.50/100wt.")

6. In transactions from CPC Livestock, I understood Eastern was acting as CPC Livestock's broker or agent. The actual buyer of the cattle took delivery directly from CPC Livestock.

7. Whenever Eastern "bought" cattle from CPC Livestock, CPC Livestock would always supply the trucks and handle all shipping to the ultimate buyer's destination.

8. CPC Livestock also periodically issued separate checks to Eastern reflecting Eastern's commission on certain sales. (See Exhibit 1) CPC Livestock also financed its livestock inventory under chattel mortgage with Farm Credit, and any checks issued to CPC Livestock by Eastern were made payable to both "CPC Livestock" and "Farm Credit Services."

9. In other instances Eastern bought cattle for CPC Livestock With Superior Livestock Auction, Inc. ("Superior"), for example, Eastern would purchase livestock strictly on a commission basis for CPC Livestock. CPC Livestock paid Superior directly and would again issue separate commission checks to Eastern.

10. In or around early November 2010 that I learned Eastern's payment checks for livestock purchases were not being honored and were returned marked "refer to maker." On November 1, 2010 and November 2, 2010 Eastern had purchased 339 head of cattle for Five Rivers

Feedyard Gilcrest, Colorado ("Gilcrest") for a total of \$466,925.05 (409081 @ \$114.14/100wt.).

The livestock had been shipped and were in process of being delivered to Colorado. Exhibit 3.

11. I contacted Tommy Gibson directly on this purchase to confirm payment. Tommy Gibson advised me that he would "get it fixed" and changed the contract to have Gilcrest pay CPC Livestock directly. CPC did not receive a check from Eastern for the 539 head of cattle and as far as I know Eastern never issued a check. Tommy Gibson contacted Gilcrest to advise them of the change in the contract. I followed up directly and CPC Livestock issued a new set of invoices to Gilcrest directly for the 539 head. Exhibit 4 CPC Livestock original invoice no. 10386 to Eastern was cancelled. CPC Livestock issued two (2) invoices to Gilcrest (one for each load), CPC Livestock invoice nos. 10387 and 10388. Exhibit 4.

12. Gilcrest paid CPC Livestock invoice no. 10387 in the amount of \$301,664.53 (339 head, 264502 @ \$114.05/100 wt.). However, Gilcrest stopped payment on the check for CPC invoice no. 10388 in the amount of \$166,627.30 (200 head, 144579 @ \$115.25/100 wt.). The Gilcrest check for invoice no. 10387 was made payable to "CPC Livestock" and "Farm Credit Services."

13. CPC Livestock has not been paid the \$166,627.30 due on CPC Invoice No. 10388 from Gilcrest and filed a claim to recover the \$166,627.30 in the Friona Interpleader.

14. CPC Livestock was issued checks from Eastern for livestock purchases for Gilcrest on October 25, 2010 for 258 head of cattle in the amount of \$221,682.50 (198979 @ \$112.13/100wt. and on October 26, 2010 for 258 head of cattle in the amount of \$237,383.38 (210426 @

\$112.13/100wt.).¹ Eastern was aware that these cattle were financed and made the checks payable jointly to "CPC Livestock" and "Farm Credit Services."

15. Eastern check nos. 123327 in the amount of \$221,682.50 and 124650 in the amount of \$237,383.33 were returned "refer to maker" on November 9th and 10th respectively.

Exhibit 5.

16. I contacted the Grain Inspection, Packers and Stockyards Administration ("GIPSA") of the United States Department of Agriculture ("USDA") to find out how to file a bond claim against Eastern.

17. GIPSA provided to me a bond form, Form P&SP 2110, to be used to claim against Eastern's bond. GIPSA provided me with instructions on how to complete the form, and completed for me sections 6 and 7 of the form by typing in the name of the bond company, Capitol Indemnity Corporation. The form also was labeled with OMB Control No. 0580-0015. **Exhibit 2**

18. In early December 2010, I completed the bond form on behalf of CPC Livestock and submitted it to GIPSA.

19. On April 6, 2011 CPC Livestock filed Claim No. 132-1 in the Eastern bankruptcy, New Albany, IN for the amount of \$631,045.07—an amount includes the principal unpaid amounts plus interest charges which are continuing.

20. I am aware from my dealings with Eastern that Eastern maintained a stockyard in Edmonton, Kentucky as a buying station.

¹ CPC Livestock Invoice No. 10385 shows the amount at \$237,383.38 but check no 124650 was issued for \$237,383.33.

FURTHER AFFIANT SA YETH NOT.

Dated _____ August 2012.

Marshall Celsor
Marshall Celsor

STATE OF KENTUCKY

COUNTY OF ALLEN)

On this 14th day of August 2012, before me, the undersigned Notary Public,
personally appeared JIMMIE MARSHALL CELSOR, known to me to be the person whose name is
subscribed to the within instrument and acknowledged that he executed the same for the purposes
therein contained.

WITNESS my hand and official seal.

My commission expires: 4-8-13

Stephen C. Jones
Notary Public



Exhibit 1

4:47 PM
11/14/11
Accrual Basis

CPC Livestock
Account QuickReport
January 1 through November 14, 2010

Type	Date	Num	Name	Memo	Amount
COMMISSION					
Check	8/20/2010	26906	Eastern Livestock Co., LLC	Comm Athens Cattle	981.60
Check	10/4/2010	26835	Eastern Livestock Co., LLC	Comm 1 Load hfs	249.62
Total COMMISSION					1,231.22
TOTAL					1,231.22

Exhibit 2

TO: Jessica Yates

303-634-2020

FROM: CPC LIVESTOCK

13196 Holland Road

Fountain Run, KY 42133

DATE: December 2, 2010

FAX: 270-622-6062

PHONE: 270-618-0496 (Brian Cell)

270-646-7214 (Marshall Cell)

OMB CONTROL NO. 0580-0015

U.S. Department of Agriculture Grain Inspection, Packers and Stockyards Administration Packers and Stockyards Program	Proof of Claim Under: 1. Surety Bond, (Clause 2, 3, or 4) 2. Trust Fund Agreement, (Clause 2, 3, or 4) 3. Trust Agreement, (Clause 2, 3, or 4) Issued Under Provisions of The Packers and Stockyards Act, 1921, as Amended and Supplemented
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State of (1) Kentucky

County (2) Allen

As the undersigned, I, (3) CPL Livestock
(full name of claimant)

Of (4) 13196 Holland Rd. (5) 270-618-0496
(complete mailing address) (phone: home, cell)

Fountain Run, KY 42133

270-622-6062 FAX

(other contact information: fax number, email address) cpebrian@NCTC.COM

being duly sworn, depose and state:

I make this claim to (6) Capitol Indemnity Corporation
(name of trustee or surety)

Select One:

<input checked="" type="checkbox"/> under the bond issued by the (7a) <u>Capitol Indemnity Corporation</u> (name of surety company)
<input type="checkbox"/> under the Trust Fund Agreement with security held by (7b) (depository, if one named)
<input type="checkbox"/> under the Trust Agreement with letter of credit held by (7c) (name of trustee)

on behalf of (8) Eastern Livestock Co., LLC
(full name and address of principle named in bond or trust agreement)
135 West Market St., New Albany, IN 47150

in the amount of (9) 624,326.35 due and owing for livestock purchased by

(10) Eastern Livestock Co., LLC 135 West Market St.
(full name and address of buyer) Clause 2, 3, or 4 New Albany, IN 47150

for his own account or as a market agency buying livestock on a commission basis. This

OMB CONTROL NO. 0580-0015

claim is based on the following described livestock which was purchased by

(11) Eastern Livestock Co., LLC
(name of buyer) Clause 2, 3, or 4

(12)

Date of Sale	Number of Head	Description of Livestock	Amount
11-1-2010	200	Sters (722 # ^{avg.} _{wt.})	\$ 165,260.52
11-2-2010	258	Sters (771 # ^{avg.} _{wt.})	221,683.50
11-2-2010	286	Sters (736 # ^{avg.} _{wt.})	237,383.33
		Total	624,326.35

} Refer to
maker
cks.

Attached and made a part of this claim are copies of the account of purchase and other documents covering the livestock transaction, such as copies of checks issued and unpaid for the livestock purchased by:

(13) Eastern Livestock Co., LLC
(name of buyer) Clause 2, 3, or 4

and other documents indicating the sale of the livestock in question to such purchaser

for which payment has not been made. (If full and complete documents of the transaction are not available or if these papers have become lost or destroyed, the claimant should insert a statement below of the facts:)

(14) _____

Account	Serial Number	Date	Amount
7480483779	124650	11/10/2010	\$237,383.33

Front Image

TRIPS Return - Refer to Maker

REFER TO MAKER

091200730
11/05/2010
00000000014520

This is a LEGAL COPY of your check. You can use it the same way you would use the original check.

RETURN REASON-S
REFER TO MAKER

Document San #
11051431259497200227
ENDITIONF
11/05/19

054920953000000

LEWIS
EASTERN
LIVESTOCK CO., LLC
PAY TO THE ORDER OF

[illegible]

№ 124650

1. 姓名: 王小明
2. 性别: 男

日本郵政省
 郵便局
 郵便局
 郵便局

● 本記事は、2017年10月10日現在のもので、最新の情報とは限りません。

• 124650 • 4104210027217480493779 •

400237363334

Back Image:

0041000014* 11/05/2003
4334650670 RR - S
0030000000* 11/05/2003
4214442556 RR - S
0030000000* 11/05/2003
415474205 RR - S
0031200100* 11/05/2003
0000000000000000 RR - S

04034207301Z 11/02/2010
040000030000000000

Raym. Crowell, Chairman, F-104,
F-105, B-52, F-4, F-16, F-18, F-20,
to the House, 1964-1965, F-20

04467

1. The first step in the process is to identify the problem. This involves gathering information about the situation and the people involved. It is important to understand the context and the impact of the problem.

2. The second step is to analyze the problem. This involves breaking down the problem into smaller, more manageable parts. It is important to identify the root cause of the problem and the factors that contribute to it.

3. The third step is to develop a plan. This involves creating a strategy to address the problem. It is important to consider the resources available and the potential risks of the plan.

4. The fourth step is to implement the plan. This involves putting the plan into action. It is important to monitor the progress of the plan and make adjustments as needed.

5. The fifth step is to evaluate the results. This involves assessing the effectiveness of the plan and the impact of the intervention. It is important to gather feedback from the people involved and use it to improve the process.

1. Do not exchange or write before the date.

Wachovia certifies that the above image(s) accurately represents the physical item from which it was produced.

Sold To EASTERN LIVESTOCK
@ GILCREST, CO

N^o 10385
CPC LIVESTOCK, LLC.

Fax 270-622-6062
 13196 Holland Road - Fountain Run, Ky 42133

Date 10/25/10

Michael, Kassie
 Cell: 270-799-1313

Marshall, Sara
 270-434-4943 270-622-5421
 Cell: 270-646-7214

Ivan, Michelle
 270-434-2490
 Cell: 270-670-3480

Brian, Cathy
 270-618-7044
 Cell: 270-618-0486

REMARKS	NO. HEAD	KIND	WEIGHT	PRICE	AMOUNT
(10/25)			203,040		
771	258	ST	198,979		
(10/26)			214,720		
736	286	ST	210,426		
TOTAL			417,760		
753	544	ST	409,405	112 ¹³	459,065. ⁸³

**CERTIFICATION OF NON-PRODUCER STATUS
 FOR THE RESELLER**
 Claimed on # 544 cattle pursuant to
 7CFR §1260.116 and 1260.314
 DO NOT DEDUCT the
 \$1.00 per head Beef Promotion Assessment
 BEEF COUNCIL REGISTERED No. KY-031
M. S. 10/25/10
 Signature Date

TRUCKER BGL - 72
HA, CTC IN GAP - 64

AMOUNT
 TOTAL \$ 459,065. ⁸³

Returned Checks - 221,682.50
 237,383.38
459,065.88

Sara Celsor

From: "Theresa Crabtree" <tcrastr@e-farmcredit.com>
To: <scelsor@nctc.com>
Sent: Thursday, November 11, 2010 11:07 AM
Attach: 1909822a.tif; 1909822.tif
Subject: FW: CPC Livestock returns
Sara – here are the check copies – front & back

I'm so sorry

Theresa Crabtree
Customer Services Representative
Farm Credit Services of Mid-America
voice (270) 782-3310 fax (270) 782-7294
Internal Extension Number 63120
tcrastr@e-farmcredit.com
www.e-farmcredit.com



This communication is intended for the exclusive use of the addressee(s). It may contain information that is privileged, confidential and/or protected from disclosure, and that may be subject to the Electronic Communications Privacy Act of 1986, as amended. If you are not the intended recipient, any review, dissemination, distribution or copying of the communication is strictly prohibited. Please notify us immediately by telephone and/or reply e-mail and destroy this message and attachments.

From: Jimmy York
Sent: Thursday, November 11, 2010 10:45 AM
To: Theresa Crabtree
Subject: CPC Livestock returns

NSF Detail:

Customer Name	CPC Livestock
Loan Number(s)	1018745100
Date Ret Item Rec	11/11/2010
	\$
Amount of Retrn	221,682.50 237383.33
Date of Payment	11/2/2010 11/2/2010
DDA Being Adjusted	8568 8568

**If an NSF fee needs to be charged, please input this in
Singleview on the loan maintenance screen**

SAU Office _____

The Branch Theresa

Was

11/11/2010

X	called
	Called
X	Was emailed
	Sent an e-mail
	Sent a
	Fax

Jimmy York
Loan Accountant Specialist SAU/Recon
FCS of Mid-America
Internal extension: 53873
voice (502) 420-3873 fax (502) 420-3573

This communication is intended for the exclusive use of the addressee(s). It may contain information that is privileged, confidential and/or protected from disclosure, and that may be subject to the Electronic Communications Privacy Act of 1986, as amended. If you are not the intended recipient, any review, dissemination, distribution or copying of the communication is strictly prohibited. Please notify me immediately by telephone and/or reply e-mail and destroy this message and attachments.

No virus found in this message.

Checked by AVG - www.avg.com

Version: 10.0.1153 / Virus Database: 424/3250 - Release Date: 11/11/10

Exhibit 3

Sold To EASTERN LIVESTOCK
@ BILCREST, CO

Nº 10386
CPC LIVESTOCK, INC.

Date 11/1 - 11/2 / 2010

Fax 270-622-6062
 13196 Holland Road - Fountain Run, Ky 42133

Michael, Kassie
 Cell: 270-799-1313

Marshall, Sara
 270-434-4943 270-622-5425
 Cell: 270-646-7214

Ivan, Michelle
 270-434-2490

Brian, Cathy
 270-618-7044
 Cell: 270-618-0496

REMARKS	NO. HEAD	KIND	WEIGHT	PRICE	AMOUNT
			147,530		
723	200	ST	144,579		
			269,900		
780	339	ST	264,502		
		TOTAL			
759	539		417,430		
CERTIFICATION OF NON-PRODUCER STATUS FOR THE RESELLER Claimed on # _____ cattle pursuant to 7CFR §1260.116 and 1260.314 DO NOT DEDUCT the \$1.00 per head Beef Promotion Assessment BEEF COUNCIL REGISTERED No. KY-031 Signature _____ Date _____			ST	409,081	114 ¹⁴
					466,925 ⁰⁵

11/2 MIHM - 62
 11/2 MIHM - 62
 TRUCKER

HUWALOT - 63
 TRIPLE D - 76
 TRIPLE D - 76

AMOUNT

TOTAL \$ 466,925⁰⁵

Exhibit 4

Sold
ToSilver Feeders

№ 10387

CPC LIVESTOCK, INC.

Fax 270-622-6062

13196 Holland Road - Fountain Run, Ky 42133

Date

11-2-2010

Michael, Kassie

Cell: 270-799-1313

Marshall, Sara Colson~~270-434-1818~~ ~~270-622-5145~~

Ivan, Michelle

270-434-2490

Brian, Cathy

270-618-7044

Cell: 270-646-7214

Cell: 270-670-3460

Cell: 270-618-0496

REMARKS	NO. HEAD	KIND	WEIGHT	PRICE	AMOUNT
780	339	st	264502	114.05	301664.53
Frequent is Paged for these cattle J.M. Colson					
Jane Jones Farm Credit Services					
270-793 2830					
FROM: <u>CPC Livestock</u>					
I attest that all livestock transferred are of: A. <input checked="" type="checkbox"/> and raised in the U.S.) B. <input type="checkbox"/> Mexican origin.					
Signature <u>J.M. Colson</u> DATE <u>11-2-2010</u>					
CERTIFICATION OF NON-PRODUCER STATUS FOR THE RESELLER					
Claimed on # <u>339</u> cattle pursuant to 7CFR §1260.116 and 1260.314					
DO NOT DEDUCT the \$1.00 per head Beef Promotion Assessment					
BEEF COUNCIL REGISTERED No. KY-031					
Signature <u>J.M. Colson</u> Date <u>11-2-10</u>					

AMOUNT

TRUCKER

TOTAL

301664.53

To

CPC LIVESTOCK, ~~LLC~~.

Date 11-1-2010

Cell: 270-618-0496

FROM: CPC Interurb
I attest that all livestock referenced by this document and transferred are of: A. ☒ U.S. origin (exclusively born and raised in the U.S.) B. ☐ Canadian, Mexican origin.

Signature

11-1-10
DATE

AMOUNT

TRUCKER_**TOTAL**

166627.30

S.S. Butch

Buchanan - Kenny

65 47940
(3) (2190)
+8 5610

70 51360

CPC COMMODITIES
CERTIFIED SCALE
FOUNTAIN RUN, KY.
11-01-10
82280 lb GROSS

9:25AM

~~68~~
63
+3
66

CPC COMMODITIES
CERTIFIED SCALE
FOUNTAIN RUN, KY.
11-01-10
79540 lb GROSS

9:09AM

49,010

CPC COMMODITIES
CERTIFIED SCALE
FOUNTAIN RUN, KY.
11-01-10
34340 lb GROSS

7:09AM

CPC COMMODITIES
CERTIFIED SCALE
FOUNTAIN RUN, KY.
11-01-10
32720 lb GROSS

7:07AM

46820

PHOENIX - BRIAN

OFF
3 BUTCH 2130 1b
on KENNY

64

CPC COMMODITIES
CERTIFIED SCALE
FOUNTAIN RUN, KY.
11-01-10
80780 1b GROSS

8:51AM

B ON
BUTCH 2610 1b

CPC COMMODITIES
CERTIFIED SCALE
FOUNTAIN RUN, KY.
11-01-10
33620 1b GROSS

7:12AM

47,160

Form No. KYSV-72 (Rev. 04/05)

Reason for Movement:

Exhibit ☐ Breeding ☒
 Sale ☒ Feeding ☒
 Slaughter ☐ Other ☐



CERTIFICATE OF VETERINARY INSPECTION

KENTUCKY DEPARTMENT OF AGRICULTURE

Office of the State Veterinarian

100 Fair Oaks Lane, Suite 252, Frankfort, KY 40601

Phone (502) 564-3956 Fax (502) 564-7852



Certificate No.

61A-231849

PERMIT NUMBER

(where applicable)

Owner or Consignor

CPC Lures Feeds

Consignee or Show or Sale

Gilchrist Feeds

Origin Address

13196 Holland Rd.

Destination Address

2277 WCR 31

City

Ft. Mitchell, KY 40130

City

LaSalle, Mo.

Area Code/Telephone

County

Premises ID:

Area Code/Telephone

970-737-2444

Premises ID:

SPECIES		CATTLE/HERD STATUS	LAST TEST DATE	SWINE HERD STATUS	LAST TEST DATE	SHEEP/GOAT STATUS
<input checked="" type="checkbox"/> Cattle	<input type="checkbox"/> Sheep	Accreditation #		Qualification #		This flock/herd is free of visible signs of foot rot, sore mouth and caseous lymphadenitis. <input type="checkbox"/> YES <input type="checkbox"/> NO KY Consistent State <input type="checkbox"/> YES <input type="checkbox"/> NO Scrapie Flock/Herd ID #
<input type="checkbox"/> Goats	<input type="checkbox"/> Equine	Certification #		Validation #		
<input type="checkbox"/> Swine	<input type="checkbox"/>					

INDIVIDUAL ANIMAL IDENTIFICATION							TB TEST		BRUCELLOSIS		EQUINE	OTHER TESTS OR VACCINATIONS
L	Check One	Description or Registration Name or additional I.D.	Official Vaccination Tattoo	A	S	B	Site Injected:	Date Bled	Results	State Lab	T	For:
1	<input type="checkbox"/> Official Ear Tag			G	E	R	S.C., Axill., C. Fold				E	Date:
N	<input type="checkbox"/> Ear Notch			E	X	E	Date Inj:			LDDC or BVC	M	Lab:
E	<input type="checkbox"/> Tattoo/Brand					E	Date Read/Results				P	RESULTS /ACCESSION#
#	<input type="checkbox"/> Reg. #					D						
1												
2		550 Feeder Sows					Mixed Breeds - Adult					
3												
4												
5		8 Loads										
6												
7												
8												
9												
10												

Veterinarian Certification:

I certify, as an accredited veterinarian, that the above described animals have been inspected by me on this date and that they are not showing signs of infection, and/or communicable disease (except where noted). The vaccinations and results of tests are as indicated on the certificate. To the best of my knowledge, the animals listed on this certificate meet the state of destination and federal interstate requirements. No warranty is made as implied.

Date: 029-200 Veterinarian's Signature:

Accred. Code: 494

Address:

City: State: ZIP:

Phone Number:

TRI-COUNTY VETERINARY SERVICES, P.S.C.
 307 WEST BUSHONG ROAD
 TOMPKINSVILLE KY 42167

Owner/Agent Certification: (where applicable)

I certify that the animals in this shipment are those certified to and listed on this certificate and that the identification and ages of the animals listed are correct.

Signature:

Date:

State Certification/Date Received:

Distribution:

White - State Veterinarian (origin)
 Canary - Owner
 Pink - State Veterinarian (destination)
 Goldenrod - Issuing Veterinarian



10/29/2010 15:24

2704875745

TRI-COUNTY VETERINARY

PAGE 01

Exhibit 5

A //

Jessie Gates

LEAS E
EASTERN
LIVESTOCK CO., LLC
PAY TO THE ORDER OF

135 West Market
New Albany, IN 47150
812-949-9035

No 124650


73-27
421

FB Fifth Third Bank
Northern Kentucky

DATE	CHECK No.	AMOUNT
10/10/27	123550	**237,383.33

CPC LIVESTOCK
FARM CREDIT SERVICES
13196 HOLLAND ROAD
FOUNTAIN RUN, KY 42133

SIGNATURE



⑈124650⑈ ⑆062100272⑆ 748049377⑈



SSP

135 West Market
New Albany, IN 47150
812-949-9035

No 123327



PAY TO THE ORDER OF

CPC LIVESTOCK
FARM CREDIT SERVICES
13196 HOLLAND ROAD
FOUNTAIN RUN, KY 42133

DATE	CHECK No.	AMOUNT
10/10/26	123327	**221,682.50

SIGNATURE

[Signature]

⑈123327⑈ ⑆042100272⑆ 7480493779⑈

WACHOVIA SERVICES

Page 4 of 5

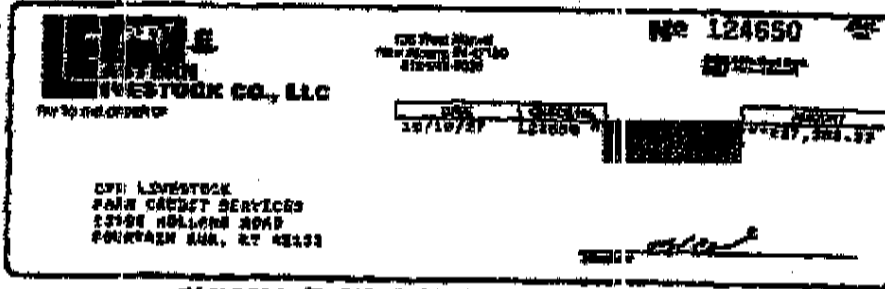
Account	Serial Number	Date	Amount
7480493779	124650	11/10/2010	\$237,383.33

Front Image

TRIPS Return - Refer to Maker

REFER TO MAKER

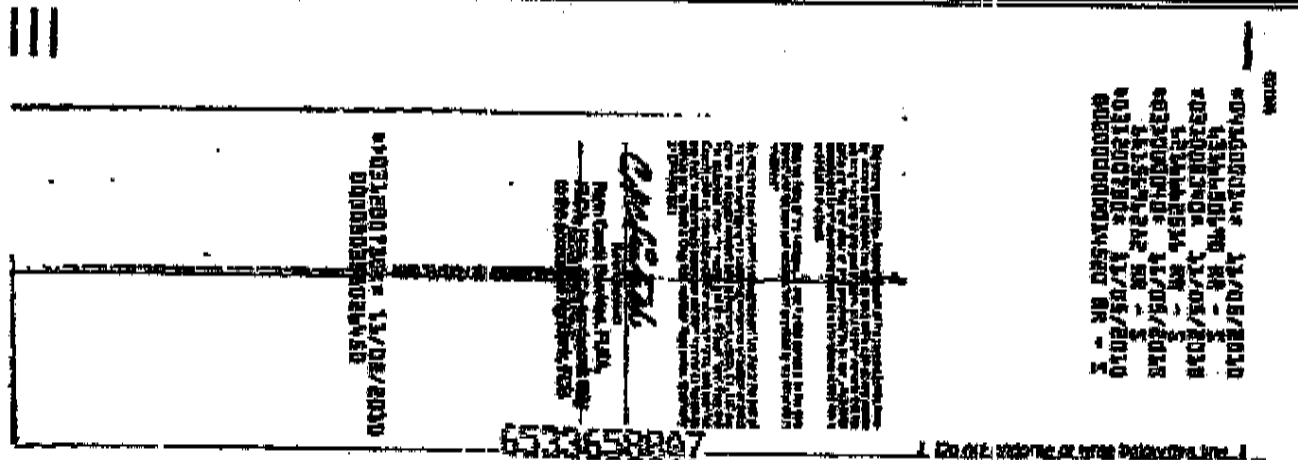
0102/20/11 11/05/2010
0549209500000000



⑆124650⑆ ⑆0023738333⑆

⑆0023738333⑆

Back Image



Wachovia certifies that the above image(s) accurately represents the physical item from which it was produced.

Exhibit C

AFFIDAVIT OF THOMAS P. GIBSON

STATE OF KENTUCKY

COUNTY OF JEFFERSON

BEFORE ME, the undersigned authority, personally appeared, THOMAS P. GIBSON, to me well known to be the same, who, being by me first duly sworn, deposes and says:

1. My name is THOMAS P. GIBSON. I am over the age of 18. I have personal knowledge of the facts set forth herein.
2. I have been in the cattle business all of my life. I was founder and principal of Eastern Livestock Company, LLC ("Eastern"), New Albany, IN. Eastern operated as a livestock "broker" and registered under Packers and Stockyards Act of 1921, 7 U.S.C. §§181 et seq. and governing regulations, 9 C.F.R. §201 et seq ("Stockyards Act"). Eastern operated in a variety of different capacities in livestock transactions but was specifically registered under the Stockyards Act bond regulations as "Condition Clause No. 2" buying and selling livestock for its own account (9 C.F.R. §201.31(c)) and the accounts of others and as "Condition Clause No. 3" clearing the livestock purchases of other registrants (9 C.F.R. §201.31(c)). Eastern served under the Stockyards Act as a registered Clearing Agency for others as registered "Clearees" and as a "Dealer/Market Agency" buying and selling for its own account and also buying and selling on a commission basis for the accounts of others.

3. Over the years Eastern and I had numerous dealings with Marshall Celsor of CPC Livestock, LLC, Fountain Run, KY ("CPC") brokering cattle purchases and sales, as well as "Order Buying" for each other. CPC is a "backgrounder" in the cattle business—pre-conditioning cattle for the rigors of the feedlot and transit to the feedlots. CPC buys cattle from farms and sells to feedlots after weaning them from grass and training them to eat from feeders.

4. For example, in its dealings with CPC, Eastern served on occasion as Order Buyer for various feedlots in Kansas, Texas, and Oklahoma, buying cattle to fill orders on a commission basis. Eastern also served as a selling agent for CPC, selling to the same feedlots. However, in both such instances the commission was typically the same—\$.50/cwt. of the delivery price which was based upon contract price per lb. for an average base weight per head, adjusted for a \$.04/cwt. "slide" and for "shrinkage" in transit. CPC was the contracting party and would pay the final adjusted price plus Eastern's brokerage commission which was also adjusted for slide and shrinkage.

5. In other instances, CPC would be the Order Buyer with the same commission structure for Eastern at the Bowling Green Livestock Auction. At the Eastern's Edmonton, KY buying station Eastern usually acted as a dealer with respect to CPC, selling cattle to CPC as a markup which CPC would accept or pass. Finally, for the video auction at Superior Livestock Auction, Inc., Ft. Worth, TX, Eastern was again an Order Buyer for the \$.50/cwt base commission.

6. In most every case where Eastern operated as a broker, Eastern would issue a check in payment for a buy and collect a payment for a sell while charging its commission.

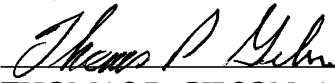
7. In late October and early November 2010, just days before Fifth Third Bank, Inc. ("Fifth Third") froze our accounts, Eastern brokered a several transactions with CPC as Order Buyer for Five Rivers' Gilcrest, Colorado feedyard ("Five Rivers"). In the first set of transactions from October 2010, by the time I became aware of a problem the cattle had been delivered, Eastern had issued checks to CPC as Seller, and Eastern had collected receipts in payment from Five Rivers as Buyer. After collecting the money, however, Fifth Third dishonored the checks that had been delivered to CPC. Unfortunately, the transactions had progressed too far for Five Rivers, Marshall Celsor, and me to modify the contracts.

8. In the second set of transactions we were able to act in time to modify the contract and have CPC issue invoices directly to Five Rivers. The cattle had been shipped but not delivered when Marshall Celsor contacted me. I called Five Rivers and spoke to Judd Butler, Manager of the Gilcrest facility, and confirmed that CPC was going to invoice Five Rivers directly to his attention and that Five Rivers should pay CPC directly on these transactions.

9. On information and belief CPC as Seller was able to collect only part of the amounts due from the Five Rivers in payment as Buyer. The unpaid amount was deposited by Five Rivers as part of the amounts in the "Friona Interpleader."

Under penalty of perjury, the above statements are true and correct.

FURTHER, at this time, Affiant saith naught.

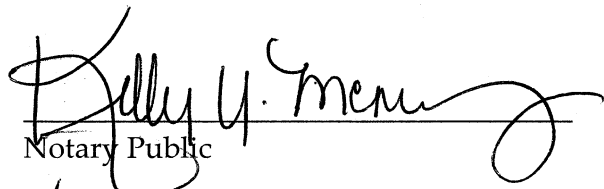
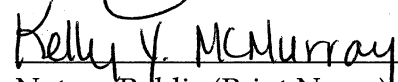

THOMAS P. GIBSON, AFFIANT

STATE OF KENTUCKY

COUNTY OF JEFFERSON

PERSONALLY APPEARED BEFORE ME, the undersigned authority, duly authorized to take acknowledgments and administer oaths, THOMAS P. GIBSON, after first being duly sworn on oath, deposes and says: that he is the individual described in and who executed the above and foregoing document, the statements contained therein are true and correct. THOMAS P. GIBSON, is personally known, and has taken an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 13 day of March 2013.


Notary Public

Notary Public (Print Name)

My commission expires: 11/9/2014
My commission number: 410323